

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

SCULLY, SCOTT,
MURPHY & PRESSER

2005 FEB -4

PCT

RECEIVED WRITTEN OPINION

11 APR 2005

(PCT Rule 66)

To:
EDWARD W. GROLZ
SCULLY, SCOTT, MURPHY & PRESSER
400 GARDEN CITY PLAZA
GARDEN CITY, NY 11530

Date of Mailing
(day/month/year)

02 FEB 2005

Applicant's or agent's file reference

15932Z

REPLY DUE

within 1 months/days from
the above date of mailing

International application No.

PCT/US03/10996

International filing date (day/month/year)

11 April 2003 (11.04.2003)

Priority date (day/month/year)

11 October 2002 (11.10.2002)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A47F 5/12 and US Cl.: 108/1

Applicant

RUBIN, LAWRENCE S.

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 11 February 2005 (11.02.2005)

Name and mailing address of the IPEA/US

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WRITTEN OPINION

International application No.

PCT/US03/10996

I. Basis of the opinion

1. With regard to the elements of the international application: *

- ☒ the international application as originally filed
- ☒ the description:
 pages 1-16 _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- ☒ the claims:
 pages 17-24 _____, as originally filed
 pages NONE _____, as amended (together with any statement) under Article 19
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- ☒ the drawings:
 pages 1-25 _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
 pages NONE _____, as originally filed
 pages NONE _____, filed with the demand
 pages NONE _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE _____
- ☐ the claims, Nos. NONE _____
- ☐ the drawings, sheets/fig NONE _____

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINION

International application No.
PCT/US03/10996

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. STATEMENT

Novelty (N)

Claims 3, 12-15, 42-53, 58-63 YES

Claims 1, 2, 4-11, 16-41, 54-57, 64-71 NO

Inventive Step (IS)

Claims NONE YES

Claims 1-71 NO

Industrial Applicability (IA)

Claims 1-71 YES

Claims NONE NO

2. CITATIONS AND EXPLANATIONS

Claims 1, 2, 4-11, 16-41, 54-57, 64-71 lack novelty under PCT Article 33(2) as being anticipated by Glashouwer. The patent to Glashouwer teaches structure as claimed including a plurality of lateral members, plurality of transverse members, first, second, and third support members (figs. 3, 4)

Claims 3, 12-15 lack an inventive step under PCT Article 33(3) as being obvious over Glashouwer in view of Gallowitz. The patent to Glashouwer teaches structure substantially as claimed as discussed above the only difference being that one of the support members does not include a wheel and axle assembly. However, the patent to Gallowitz teaches the use of providing a support assembly including a wheel and axle assembly to provide mobility to be old. It would have been obvious and well within the level of one having ordinary skill in the art to modify the structure of Glashouwer to include a wheel and axle assembly, as taught by Gallowitz since such structures are alternative conventional support structure used for the same intended purpose, thereby providing structure as claimed.

Claims 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 58, 59, 60, 61, 62, 63 lack an inventive step under PCT Article 33(3) as being obvious over the prior art as applied in the immediately preceding paragraph and further in view of Ozols. The patent to Glashouwer in view of Gallowitz teaches structure substantially as claimed as discussed above including support members the only difference being that the member does not include a stabilizer bar. However, the patent to Ozols (fig. 1) teaches the use of providing additional support members to provide for more rigidity to be old. It would have been obvious and well within the level of one having ordinary skill in the art to modify the structure of Glashouwer in view of Gallowitz to include a stabilizer bar, as taught by Ozols since such structures are conventional alternative structures used for the same intended purpose, thereby providing structure as claimed.

----- NEW CITATIONS -----

WRITTEN OPINION

International application No.
PCT/US03/10996

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.